

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

FILED**UNITED STATES DISTRICT COURT**

for the

Northern District of California

NOV 09 2018

SUSAN Y. SOONG
CLERK, U.S. DISTRICT COURT
NORTH DISTRICT OF CALIFORNIA
OAKLAND OFFICE

Division

Case No.

C18-6823 HSG

(to be filled in by the Clerk's Office)

Jury Trial: (check one) ☒ Yes ☐ NoAnita Miralle, Jodii
Le' grand Everette, Tina Scott,
Aiyahanna Johnson, Lucas D. BrownIrvin Jose Hernandez
Plaintiff(s)(Write the full name of each plaintiff who is filing this complaint.
If the names of all the plaintiffs cannot fit in the space above,
please write "see attached" in the space and attach an additional
page with the full list of names.)

-v-

The City of Oakland, Libby
Schaaf, Joe DeVries, and Doss-Ho

Defendant(s)

(Write the full name of each defendant who is being sued. If the
names of all the defendants cannot fit in the space above, please
write "see attached" in the space and attach an additional page
with the full list of names. Do not include addresses here.)**COMPLAINT FOR VIOLATION OF CIVIL RIGHTS**
(Non-Prisoner Complaint)**NOTICE**

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

Pro Se 15 (Rev. 12/16) Complaint for Violation of Civil Rights (Non-Prisoner)

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

Name

Address

County

Telephone Number

E-Mail Address

Anita Miralle, Jodii LeGrande Everett I,
 Tina Scott, Aiyahanna Johnson, Lucas D Brown
 4799 Shattuck Ave. Irvine Jose Hernandez
 Oakland CA 94609
 City State Zip Code
 Alameda
 510.355.7010
 maowunny@gmail.com

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

Name

Job or Title (if known)

Address

County

Telephone Number

E-Mail Address (if known)

The City of Oakland
 A subdivision of the State of California
 1 Frank Ogawa Plaza
 Oakland CA 94612
 City State Zip Code
 Alameda
 510.238.3601

☐ Individual capacity☒ Official capacity

Defendant No. 2

Name

Job or Title (if known)

Address

County

Telephone Number

E-Mail Address (if known)

Libby Schaaf
 Mayor
 1 Frank Ogawa Plaza
 Oakland CA 94612
 City State Zip Code
 Alameda
 LSchaaf@oaklandnet.com

☐ Individual capacity☒ Official capacity

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Defendant No. 3

Name

Job or Title (if known)

Address

County

Telephone Number

E-Mail Address (if known)

Joe DeVries
 Asst. to City Administrator
 1 Frank Ogawa Plaza
 Oakland CA 94612
 City State Zip Code
 Alameda
 510.238.3083
 jdeuries@oaknet.com
☐ Individual capacity ☒ Official capacity

Defendant No. 4

Name

Job or Title (if known)

Address

County

Telephone Number

E-Mail Address (if known)

City State Zip Code
☐ Individual capacity ☐ Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

- ☐ Federal officials (a *Bivens* claim)
☒ State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the "deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws]." 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials?

8th & 14th Amendments

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.

The City of Oakland, Mayor Libby Schaaf, Asst. to city Administrator Joe DeVries acted under color of law by saying we homeless residents are trespassing public land, & posted notice of eviction & illegal encampment under the pretense they had right & power to do so. They are adjusting the law to suit their political circumstances & using their power inappropriately. They are acting under the pretense of legal authority when no right exists as we are protected by the constitution.

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?

1) Email from Joe DeVries Oct 29, 2018 2:13pm
2) Email
Oakland CA, Alameda County

- B. What date and approximate time did the events giving rise to your claim(s) occur?

1) Email from Joe DeVries Oct 29, 2018 2:13pm.
2) Conference call with Joe DeVries Oct 30, 2018 1pm
3) Email from Joe DeVries Nov 6, 2018 2:19pm
4) Eviction notices posted by city Nov 7, 2018 4:35pm

- C. What are the facts underlying your claim(s)? (For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?)

On both emails Joe DeVries said our attempt to house ourselves on public land was illegal & trespassing & advised us to cease activity. On the Oct 30 phone call which Candice Elder from East Oakland Collective was a part of Joe said ^{we were} to stop building shelters for ourselves so another (bulldozing) of our homes would not happen. He agreed to broker a meeting to discuss use of the land. In the Nov 6 email Joe said he & District council member were not interested in meeting until we vacated land. He again said we were trespassing & should cease attempting to house ourselves. On Nov 7 Oakland Police Dept posted notices at our encampment.

C continued:

at 606 Clara St. & 9418 Edes Ave. —
an intentional clean & sober community for homeless
women, their ~~families~~ homeless families
and homeless male support (security, legal
observers). Candice Elder, Pastor Preston
Walker, ~~John~~ Miguel Elliot were housed
advocates & supporters who witnessed
the posting JMM the family member
of Anita Miralle also witnessed the
posting

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

if plaintiffs are forced to money homeless people & their homeless families who have no alternative shelter to meet their needs would be forced into the elements and to unsafe streets with out safe shelter, causing irreparable injury & cruel & unusual punishment.

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

We seek an injunction ^{the} ~~five~~ relief enjoining defendant & their agents. from arresting plaintiffs or removing personal items and/or preventing conduct by plaintiffs to sleep, eat, maintain shelter & providing services to larger community at the properties commonly known as: 600 Clara St & 9418 Edes Ave. Oakland CA 94603. also known as "Housing & Dignity Village". Establishing of an "arrest free zone" and "eviction free zone".

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 11/7/2018

Signature of Plaintiff

Printed Name of Plaintiff

Anita L. Miralle, Jodi LeGrand, Erica L. Scott
 Anita L. Miralle, Jodi LeGrand, Erica L. Scott
 David Lucas Brown, AYAHNA JOHNSON, Anyhuma Johnson

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address